



CITY OF DURHAM | NORTH CAROLINA

## MEMORANDUM

**DATE:** October 18, 2011

**TO:** Thomas J. Bonfield, City Manager

**THROUGH:** Keith Chadwell, Deputy City Manager

**FROM:** Kevin Dick, Director, Office of Economic and Workforce Development  
G. Christopher Dickey, Senior Manager, Economic Development  
Peter Coyle, Cultural and Business Initiatives Coordinator, OEWD  
Michael Schoenfeld, Chair, Cultural Advisory Board

**SUBJECT:** Resolution Establishing a Public Art Policy

### Executive Summary

This item recommends the approval of a resolution establishing a Public Art Policy for the City of Durham.

### Recommendation

The Office of Economic and Workforce Development (OEWD) recommends that the City Council adopt the Resolution Establishing a Public Art Policy.

### Background

On January 4, 2010, the City Council adopted a resolution to create the Cultural Advisory Board (CAB), replacing the earlier City/County Cultural Master Plan Advisory Board. The defined purpose of the CAB is to “serve as an advisory committee to the City Manager and City Council regarding the implementation of the Durham Cultural Master Plan, the implementation of a public art program, the implementation of programs and projects to promote economic and workforce development through cultural sector projects and such other responsibilities as the Council may choose to assign.” Members of the CAB are appointed by the City Council. To carry out the responsibility regarding the implementation of a public art program, the CAB established a Public Art Committee (PAC) as a subcommittee of the CAB. The PAC researched public art programs in other cities and jurisdictions and presented the proposed resolution to the CAB in February 2011. The CAB approved the proposed resolution by a unanimous vote.

There are approximately five hundred public art programs operating under state, county and local governments as well as the federal General Services Administration and various regional authorities. Of these, approximately four hundred are programs of local jurisdictions. The Durham Cultural Master Plan, as presented to the City Council in August 2004, included provisions for the establishment of a public art program and a percent for art program for funding as a strategy to implement the Goal 3 of the Master Plan: *Use Durham's many arts and cultural assets as a key component of strategies to foster economic development throughout Durham County.*

Strategy 3.2, under that goal, proposed the establishment of a formal percent-for-art program for Durham. Percent-for-art programs are designed by cities and counties to use a set percentage of the capital projects budget (usually between 1 and 2 percent) to fund the inclusion of cultural amenities in the projects. Defined differently in different communities, public art can cover everything from artist-designed streetscapes as a part of a major street renovation to public sculptures in front of a new public building to arts programming in public spaces. Often such programs include requirements to developers to either fund arts amenities as part of their development or to contribute a set sum to the city or county's program. In Durham, a percent-for-art program would represent an important adjunct to support the range of economic development initiatives under discussion in Cultural Master Plan Goal Section 3.

While Durham has had some public art pieces installed over the years, the projects were generally funded individually through specific grants or donations. There was no consistency to the selections. A well-thought-out percent-for-art program can play an important role in redefining Durham's image in the region. With a focus on arts and culture but also on excellent urban design, public art can contribute in significant ways to building a distinct identity for Durham.

Although Strategy 3.2 included a proposal which stipulated that new development or significant renovations by private developers should require developers to include a cultural component, OEWD staff and the Cultural Advisory Board recommend that private developers be encouraged to participate through an incentive system that includes a public art component, and not be mandated (if authorized by law) to provide it as part of development.

In 2007, OEWD and the Cultural Master Plan Advisory Board (CMPAB) instituted a temporary procedure for reviewing offers to donate public art works to the City. The CMPAB created a public art task force to advise it in the review of proposals brought to the City and the OEWD staff developed an application process, in cooperation with other affected city departments. That procedure has been used for two proposals brought to the City since that time.

This resolution formalizes the structure of the Public Art Committee as an advisory body to the Cultural Advisory Board in carrying out its responsibilities under the Public Art program. The committee will consist of at least three members of the Cultural Advisory Board, including the committee chair, with no fewer than six additional members. The

CAB will advertise vacancies on the committee to encourage diversity and broad community participation. The committee members will include professional artists or professionals in related fields, including but not limited to architecture and landscape architecture, and members of the general public with knowledge or experience in public art projects or related activities. Members shall live or work in Durham. As currently constituted, the committee has nine members including the Director of the Nasher Museum of Art, an artist, a landscape architect, a developer, a real estate broker, a Downtown Durham, Inc. staff member, the executive director of the Durham Arts Council and the former administrator of the Minneapolis public art program. Meetings are advertised and open to the public. Committee recommendations are subject to review and approval by the Cultural Advisory Board, a body appointed by the City Council.

### **Issues and Analysis**

The Cultural Master Plan Public Art Task Force, and its successor body, the Cultural Advisory Board Public Art Committee, reviewed the programs in place in a number of municipalities, including Charlotte, Raleigh, Chapel Hill, Cary, New York, Los Angeles, Fulton County (Atlanta), and other locations in North Carolina and throughout the country. The committee also reviewed the Downtown Master Plan and other city policies and economic development plans. Based on that research, the Public Art Committee developed a proposal for a public art program appropriate to Durham's needs.

The key elements of that proposal are a percent-for-art process and a process for the review of public art proposals, which would include requirements for public engagement and educational outreach. The percent-for-art funding mechanism would require the City Manager, in the annual request for Capital Improvement Project funds, to recommend that an amount of up to one percent of the recommended Capital Improvement Project budget be set aside for public art projects in the Downtown Development Tier including the Parrish Street Project Area, the Community Development Area outside Downtown, and at designated gateways to the City. This fund may be for projects at specific project sites within the geographical areas listed or at other public places. Approved public art funding would be set aside in a Project Fund for Public Art to be used to commission art works at sites approved by the City Council or the Council's designee. The committee also developed a working definition of public art, which is contained in a resolution that is being presented in conjunction with this memorandum (attached).

A major priority of the City of Durham is increasing and strengthening the economic stability of the City. In a similar vein, the Raleigh Arts Commission Proposal to Establish a City of Raleigh Public Art Program commented on the impact of public art programs on the local economy. To quote from that proposal:

... public art projects engender goodwill and enhance community image – two intangible qualities that local and state governments aim to achieve. Data from the New York City Parks and Recreation Department state that the \$20 million dollar investment in creating “The Gates” in Central Park – which lasted only 16 days – generated an estimated \$254 million in revenue to the City (hotels, restaurants,

museums, theaters, retail shops, transit, parking and transportation). Visitors spend more than residents by twice as much, indicating that the arts draw tourists to a location that is artful and in which their needs benefit the local economy.

Durham-related examples that have encouraged visitor interest, helped to define Durham and celebrate the City's history and culture are as follows:

- The Pauli Murray Project;
- Georges Rousse Project;
- Recent installation of murals in Raleigh-Durham International Airport, under the Raleigh Durham Airport Authority Public Art Program;
- The Bull at CCB Plaza;
- The water course at the American Tobacco Campus;
- The Jaume Plensa light sculpture at the DPAC;
- The artist-designed markers on Parrish Street;
- The planned artist-designed bus shelters for the Bull City Connector.

Nationally and internationally, cities often are defined in the public mind by their public art. From large structures like the Eiffel Tower, the Brandenburg Gate, the Washington Monument and the Statue of Liberty to more intimately scaled works like the bull on Wall Street in New York and the Peter Pan statue in London's Kensington Gardens, these installations become tourist destinations and symbols of local pride.

A public art program will support the City of Durham Strategic Plan, specifically Goals 1, 3 and 5. Goal 1: *A Strong and Diverse Economy* is supported by the fact that public art has the ability to enhance public spaces, thereby attracting visitor and creating the potential for increased commerce. An outcome measure of Goal 3: *Thriving Livable Neighborhoods* is "citizen perception of the overall quality of their neighborhood." Public art can increase neighborhood pride and help to define neighborhoods. The objective measures under Goal 5: *Stewardship of the City's Physical Assets* include the "appearance of gateways into the City of Durham." Public art can be a valuable component of a gateways improvement program, creating visual images that convey a message of local vitality and creativity for visitors as well as for residents.

A public art program supports the Durham Comprehensive Plan. Goal 4.2: Design Quality calls for the City to "Encourage quality at all levels of design. Design quality impacts the actual function and appearance of a place as well as the perceptual feel of that place." Policy 4.2.1e: Public Art states "The Appearance Commission and City-County Planning shall explore how to encourage the incorporation of public art in new development projects, particularly in Downtown and Compact Neighborhood Tiers."

In a city like Durham, which prides itself on its diversity, it can be anticipated that, as with many areas of public activity, not everything proposed will be universally popular. It is important to this process, as to any area of city government function, that the public is invited and welcomed to participate in the process. It is standard for public art programs to create a mechanism for public comment to be provided to the artist, and for public

interaction with the artist, before the completion of design of a work. It is equally important that all appropriate city departments have input to assure that issues of design and content can be resolved within the design process. In the process leading to the DPAC light sculpture, for example, considerable changes were made to the design of the piece to answer concerns on matters as diverse as child safety, potential threats to migratory birds, maintenance costs, and religious content of the original proposed design.

The proposed percent-for-art funding mechanism would be based on an allocation of up to one percent of the Capital Improvement Project budget. The Public Art Committee was advised by the North Carolina Arts Council Public Art Office that any plan to impose a percent-for-art requirement on private developers would require state legislature authorization. No North Carolina community has a private developer requirement. As with some other localities, the CAB proposes that the Council require City staff to encourage voluntary participation by private developers through incentives and through consideration of public art components of private developments in the evaluation of proposals for development incentive grants, zoning waivers, and other matters.

The Unified Development Ordinance (Section 6.12.3.D.2.c) provides for an allowance for additional building height in the Downtown Design District for development projects that include public art. The Durham Design Manual (Section 1.1.7, *Public Art*) defines the Goal as being “Promote public art that is a fixed part of the site and serves as an amenity for an allowed bonus or alternative in the design, such as for additional height.” The section lists seven standards that must be met by a property owner under that section.

The Economic Development Job Creation and Retention and Investment Incentive Policy, as approved by the City Council on April 4, 2011, in the evaluation criteria for economic incentives, provides points in the scoring of applications if developers agree to include public art in their projects, as noted in Section 6.b.ii.N.6 (for projects in the Downtown Development Tier and Parrish Street Project Area) and in Section 6.b.iii.M (for projects in the Community Development Area outside of the Downtown Development Tier and in Targeted CDA Corridors).

OEWD will work with other City departments to develop additional incentives for voluntary public art installations by private developers. These could include expedited review for project proposals or a financial incentive similar to the job creation incentive included in the Economic Development Policy.

The Public Art Committee could be made available to responsible departments and to private developers to provide advice on public art projects initiated under incentives programs.

OEWD and the Cultural Advisory Board will consult with local not-for-profit agencies to consider the possibility of public-private partnerships, taking advantage of the income tax deductibility of gifts to not-for-profits and of the restriction of some foundation grants to non-governmental agencies, to encourage donations of public art or of funding for public art projects from corporations, foundations and private individuals.

**Alternatives**

The City Council may reject the recommendation to approve the resolution or may choose to change the resolution. Not approving the resolution would continue the current situation in which there is not a clearly stated policy for the encouragement and expansion of public art in the City.

**Financial Impact**

The proposal has no impact of City funds prior to Fiscal Year 2013. Beginning in that Fiscal Year, funds would need to be allocated during the budget process in an amount up to 1% of the total Capital Improvement Project budget. No additional staff is requested. The resolution authorizes that the Public Art Policy can make provisions for administrative costs and maintenance of artworks commissioned or accepted under the program.

**SDBE Summary**

An SDBE summary is inapplicable because no project-specific goals have been set and no SDBEs are involved in this item.

**Attachments**

Resolution Establishing a Public Art Policy